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2 AARON R. FIELD (SBN 310648)
3 CANNATA O'TOOLE FICKES & OLSON LLP
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6 Attorneys for Defendant
GREENPEACE FUND, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

13 RESOLUTE FOREST PRODUCTS, INC.,
14 RESOLUTE FP US, INC., RESOLUTE FP
15 AUGUSTA, LLC, FIBREK GENERAL
PARTNERSHIP, FIBREK U.S., INC.,
FIBREK INTERNATIONAL INC., and
RESOLUTE FP CANADA, INC..

Plaintiffs,

1

18 GREENPEACE INTERNATIONAL (aka
19 "GREENPEACE STICHTING COUNCIL"),
20 GREENPEACE, INC., GREENPEACE
FUND, INC., FORESTHETICS, DANIEL
BRINDIS, AMY MOAS, MATTHEW
21 DAGGETT, ROLF SKAR, TODD PAGLIA,
and JOHN AND JANE DOES 1-20.

Defendants.

Case No. 3:17-CV-02824-JST

**DECLARATION OF GAY CROSTHWAIT
GRUNFELD IN SUPPORT OF
GREENPEACE FUND, INC.'S MOTION
FOR ATTORNEY'S FEES AND COSTS
PURSUANT TO CAL. CODE CIV. PROC.
§ 425.16(c)**

Date: April 4, 2019

Date: April 4, 2003
Time: 2:00 p.m.

Time: 2:00 p.m.
Crtrm.: 9, 19th Floor

I, Gay Crosthwait Grunfeld, declare:

2 1. I am an attorney duly licensed to practice law in California. I am a partner in the
3 law firm of Rosen Bien Galvan & Grunfeld LLP. I have personal knowledge of the facts set forth
4 herein, and if called as a witness, I could competently so testify. I make this declaration in support
5 of Greenpeace Fund, Inc.’s Motion for Attorney’s Fees and Costs Pursuant to Cal. Code Civ. Proc.
6 § 425.16(c) (the “Motion”).

BACKGROUND AND EXPERIENCE

8 2. I graduated from Columbia Law School in 1984 as a Harlan Fiske Stone Scholar
9 and Articles Editor of the *Columbia Law Review*, after which I clerked for the Honorable Jack B.
10 Weinstein of the United States District Court for the Eastern District of New York. A true and
11 correct copy of my current *curriculum vitae* is attached hereto as **Exhibit A**.

12 3. After two years as an associate, in 2008, I became a partner, in 2012 a named
13 partner, and in 2018 the managing partner of Rosen Bien Galvan & Grunfeld, LLP (“RBGG”).

14 4. RBGG is a 19-lawyer litigation firm in San Francisco with an extensive
15 background and expertise in First Amendment law, as well as commercial and civil rights
16 litigation. From its formation in 1990, RBGG has been nationally recognized for its various
17 practice areas. Best Lawyers in America placed the firm in the first tier in Appellate Practice,
18 Commercial Litigation, Employment Law-Individuals, and Civil Rights for 2018. I have
19 repeatedly been named to the *Daily Journal*'s list of Top 100 Lawyers in California, including for
20 2016. The firm's partners have been named SuperLawyers repeatedly, and seven of the firm's
21 associates were named Rising Stars by SuperLawyers in 2018.

22 5. My colleagues and I regularly represent civil litigants in federal and state courts,
23 including in complex civil litigation such as that at issue here. For example, I represented the
24 plaintiffs in a case titled *Animal Magic Productions Ltd. et al. v. Fat Red Couch, Inc. et al.*, Case
25 Marin Superior Court No. CIV 1601664, dismissed April 19, 2017, involving claims for breach of
26 contract, fraud, intentional interference with contract, violation of the Unfair Competition Law,
27 money had and received, and open book account. In that case, I successfully obtained dismissal of
28 portions of a defamation cause of action in a cross-complaint using California's anti-SLAPP law,

1 California Code of Civil Procedure § 425.16. I also have been counsel in other anti-SLAPP
2 litigation, including in *City of Morgan Hill v. Tichinin*, review denied January 13, 2010, Cal. Ct.
3 App. No. H031019, and *Walczak v. McCoy*, S.F. Cty. Super. Ct. No. CGC 09 493150.

4 6. RBGG has represented parties in media and First Amendment law cases, including
5 multiple successful cases on behalf of Prison Legal News, a non-profit news organization that
6 provides information about legal issues relevant to incarcerated persons through a variety of
7 publications distributed to thousands of subscribers at more than two thousand correctional
8 facilities. We also are well-known for our practice in the area of attorneys' fees litigation,
9 including in the cases discussed in paragraphs 7, 8, and 11, below.

ATTORNEYS' FEES LITIGATION EXPERTISE

11 7. From its formation in 1990, RBGG has been responsible for briefing and
12 conducting oral argument in state and federal appellate courts in a number of attorneys' fees cases,
13 including among others, *National Federation of the Blind v. Uber Techs., Inc.*, N.D. Cal. No. 3:14-
14 cv-04086-NC, in which the court approved our request for fees and costs at our 2016 billing rates.
15 True and correct copies of the order approving our request for fees and costs, as well as excerpts
16 of court filings showing the approved billing rates, are attached hereto as **Exhibit B**. *See also*
17 *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010); *L.H. v.*
18 *Schwarzenegger*, 645 F. Supp. 2d 888 (E.D. Cal. 2009); *Gates v. Shinn*, (9th Cir. Apr. 8, 1996,
19 Nos. 95-15402-15403) [nonpub. opn.]; *Gates v. Gomez*, 60 F.3d 525 (9th Cir. 1995); *Gates v.*
20 *Rowland*, 39 F.3d 1439 (9th Cir. 1994); *Holland v. Roeser*, 37 F.3d 501 (9th Cir. 1994); *Gates v.*
21 *Deukmejian*, 987 F.2d 1392 (9th Cir. 1992); *Greene v. Dillingham Construction, N.A., Inc.*, 101
22 Cal. App. 4th 418 (2002); and *Rebney v. Wells Fargo Bank*, 232 Cal. App. 3d 1344 (1991).
23 RBGG partners have also served as special fees counsel in *Finkelstein v. Bergna*, 804 F. Supp.
24 1235 (N.D. Cal. 1992), and counsel of record on two *amicus curiae* briefs filed in the Supreme
25 Court of the United States in *Perdue v. Kenny A.* 559 U.S. 542 (2010), on behalf of small civil
26 rights law firms, including many in the Bay Area, and *City of Burlington v. Dague*, 505 U.S. 557
27 (1992), on behalf of *pro bono* organizations and private law firms, including most major law firms
28 in San Francisco.

1 8. I have litigated several attorneys' fees motions, including in:

2 (a) *McCoy v. Walczak*, S.F. Cty. Super. Ct. No. CGC 09 493150, in which the
 3 superior court approved our request for attorneys' fees and costs for our successful work on an
 4 anti-SLAPP motion, and the First Appellate District of the Court of Appeal of the State of
 5 California affirmed the superior court's order. Both the superior court's order and the Court of
 6 Appeal's opinion are attached hereto as **Exhibit C**.

7 (b) *L.H. v. Schwarzenegger*, E.D. Cal. No. Civ. S-06-2042 LKK-GGH, in
 8 which we obtained in March 2009 an award of over \$4.8 million on behalf of our firm and our co-
 9 counsel in a complex Due Process and Americans with Disabilities Act class action.

10 9. As the managing partner of the firm, I participate in setting my firm's rates at least
 11 once per year. I also engage in frequent discussions with fee paying clients about rates. To set
 12 firm billing rates, I pay special attention to many sources of information regarding the legal
 13 marketplace. The sources on which I rely include, but are not limited to: (1) my own involvement
 14 in attorneys' fees litigation; (2) discussing attorneys' fees, billing, and work practices with other
 15 attorneys; (3) representing other attorneys seeking fees and/or providing expert declarations
 16 regarding fees to other attorneys; (4) obtaining declarations from other attorneys regarding market
 17 rates, attorneys' fees, billing, and work practices; (5) reviewing surveys, legal newspapers,
 18 reported decisions, and treatises regarding prevailing attorneys' rates, fees, billing, and work
 19 practices; (6) reviewing attorneys' fees applications and awards in other cases, as well as
 20 unpublished decisions; and (7) reviewing rates charged by, and billing and work practices of, other
 21 firms that my firm has retained or with whom it has associated.

22 10. Every year, when my partners and I set rates for the firm, we consider the
 23 information we are able to gather regarding other firms' rates, the work we are performing, and the
 24 experience of our attorneys and staff, as well as our ongoing communications with our fee-paying
 25 clients and potential clients concerning our rates. We undertake this careful analysis each year by
 26 gathering information from numerous law firms and reviewing articles and other public sources of
 27 information, such as fee petitions and awards and the information listed in paragraph 9 to

1 determine the range of prevailing rates in the San Francisco Bay Area for attorneys with similar
 2 levels of experience performing work of similar complexity.

3 11. I regularly bill clients in civil litigation matters my full hourly rates and the full
 4 hourly rates for the associates and paralegals with whom I work, and our firm is paid those rates.
 5 RBGG's hourly rates are comparable to those of other attorneys in the San Francisco Bay Area,
 6 Los Angeles, and elsewhere in California. They are also the rates we claim in our fee applications
 7 in all our fee-shifting cases, both inside and outside the San Francisco Bay Area. They have been
 8 accepted consistently by courts in California, including in the following:

9 (a) *Armstrong v. Brown*, N.D. Cal. No. 4:94-cv-02307-CW, in which the
 10 Honorable Claudia Wilken signed a Stipulated Order for Attorneys' Fees and Costs for the third
 11 quarter of 2018, approving RBGG's 2018 rates. A true and correct copy of excerpts of Judge
 12 Wilken's order is attached hereto as **Exhibit D**.

13 (b) *Sunner et al. v. Kenneth R. Turnage II General Contractor, Inc. et al.*,
 14 Alameda Cty. Super. Ct. No. TG15772244, in which the court approved our request for fees and
 15 costs as part of a class action settlement common fund. A true and correct copy of the order
 16 approving our request for fees and costs, as well as excerpts of court filings showing our 2017
 17 billing rates, are attached hereto as **Exhibit E**.

18 (c) *Quinby v. ULTA Salon, Cosmetics & Fragrance, Inc.*, No. CV-15-4099
 19 WHO (N.D. Cal.), in which the court approved our request for fees and costs as part of a class
 20 action settlement common fund. A true and correct copy of the order approving our request for
 21 fees and costs, as well as excerpts of court filings showing our 2016 billing rates, are attached
 22 hereto as **Exhibit F**.

23 (d) *Hernandez v. Cty. of Monterey*, N.D. Cal. No. 5:13-CV-2354-PSG, in
 24 which the Court approved our request for fees and costs in an injunctive relief settlement. A true
 25 and correct copy of the November 9, 2015 Order approving RBGG's requested lodestar based on
 26 RBGG's 2015 market rates, including my then rate of \$710 per hour, as well as excerpts of court
 27 filings showing RBGG's rates, are attached hereto as **Exhibit G**.

1 (e) *Ramirez et al. v. Ghilotti Bros., Inc. et al.*, N.D. Cal. No. C 12-04590 CRB,
2 in which the court approved our request for fees and costs as part of a class action settlement
3 common fund. A true and correct copy of the order approving our request for fees and costs, as
4 well as excerpts of court filings showing our 2014 billing rates, are attached hereto as **Exhibit H**.

5 (f) *Armstrong v. Brown*, 805 F. Supp. 2d 918, 922 (N.D. Cal. 2011)
6 (compelling defendants to pay RBGG’s “reasonable 2010 hourly rates”).

7 (g) *Valdivia v. Brown*, 848 F. Supp. 2d 1141, 1143-44 (E.D. Cal. 2011)
8 (granting motion to compel payment of fees at RBGG’s 2010 rates of \$275 to \$800 per hour,
9 given the finding that these rates “are in line with prevailing rates charged by other San Francisco
10 Bay Area attorneys of comparable experience working on similarly complex cases”).

11 (h) *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010)
12 (affirming RBGG's requested 2008 rates).

13 (i) *L.H. v. Schwarzenegger*, 645 F. Supp. 2d 888, 894-95 (E.D. Cal. 2009)
14 (awarding full requested hourly rates of \$295 to \$640 for RBGG attorneys “based on
15 consideration of the 2008 market rates and the skill of the individual attorneys”).

THE CLAIMED HOURLY RATES ARE REASONABLE

17 12. I understand that Greenpeace Fund, Inc. is seeking compensation for its attorneys at
18 rates of \$775 per hour for Cannata O'Toole Fickes & Olson LLP named partner Karl Olson
19 (admitted in 1982) and \$350 per hour for Cannata O'Toole Fickes & Olson LLP associate Aaron
20 Field (admitted in 2016). These rates are consistent with, and in fact substantially lower than, my
21 firm's rates. RBGG's relevant 2019 billing rates are: \$1,000 per hour for partner Michael W.
22 Bien (1980 graduate); \$940 per hour for partner Jeffrey Bornstein (1981 graduate); \$860 per hour
23 for my work (1984 graduate), \$800 per hour for partner Ernest Galvan (1997 graduate); \$440 per
24 hour for associate Hugo Cabrera (2015 graduate); and \$400 per hour for associates Cara Trapani
25 and Marc Shinn-Krantz (2016 graduates).

26 13. In my opinion, the claimed hourly rates of \$775 for Karl Olson and \$350 for Aaron
27 Field are modest for lawyers of their background and experience, particularly in a case of this type
28 and level of complexity. I am familiar with their backgrounds, and both have experience handling

1 media and First Amendment cases such as this. Their rates are at the lower end of or below the
2 rates charged by and regularly awarded to lawyers with comparable backgrounds, experience, and
3 skill in complex anti-SLAPP cases like this one. Here, as in any bet-the-company case,
4 Greenpeace Fund reasonably selected experienced attorneys. Mr. Olson has a reputation as one of
5 the very top anti-SLAPP and First Amendment lawyers in California. Greenpeace Fund, Inc. was
6 justified in retaining Mr. Olson and Mr. Field, and their requested rates are entirely appropriate
7 under the circumstances.

8 14. In my opinion the claimed hourly rate of \$125 for Cannata O'Toole Fickes &
9 Olson LLP paralegal Jessica Toscano is modest for a paralegal with her level of experience, which
10 I understand to exceed seven years. It is at the lower end of or below the range of rates charged by
11 and awarded for paralegals with comparable backgrounds and experience.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct, and that this declaration is executed at San Francisco, California this
14 20th day of February, 2019.

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/s/ Gay Crosthwait Grunfeld

17 Gay Crosthwait Grunfeld

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Exhibit A



ROSEN BIEN
GALVAN & GRUNFELD LLP

Gay Crosthwait Grunfeld
(formerly Danforth)

101 Mission Street, Sixth Floor
San Francisco, California 94105-1738

T: (415) 433-6830
F: (415) 433-7104
E: ggrunfeld@rbgg.com

EXPERIENCE

Rosen Bien Galvan & Grunfeld LLP; San Francisco, California **2008 – Present**
Partner

General and complex civil litigation, with an emphasis on civil rights, employment, business, and attorneys' fees cases, at the trial court and appellate levels.

Rosen Bien & Galvan, LLP; San Francisco, California **2005 – 2007**
Associate Attorney

Bryant, Clohan & Baruh, LLP; Palo Alto, California **2001 – 2005**
Associate Attorney

General and complex civil litigation, including jury trial experience, in real estate, business, insurance “bad faith,” construction defect, and employment claims and disputes.

Fenwick & West; Palo Alto, California **1996 – 1997**
Associate Attorney

Represented high-tech companies in employment, commercial, and trade secret disputes, and provided employment counseling and advice.

State of California, Administrative Office of the Courts **1993 – 1995**
San Francisco, California
Consultant & Editor

California Judicial Council report, Achieving Equal Justice for Women and Men in the Courts.

Dickson & Ross; Oakland, California **1989 – 1991**
Associate Attorney

Employment and environmental litigation in court and in administrative proceedings.

Altshuler & Berzon; San Francisco, California **1985 – 1989**
Associate Attorney

Represented individuals, labor unions, and non-profit organizations in employment, labor, and environmental matters.

The Honorable Jack B. Weinstein, Chief Judge
United States District Court for the Eastern District of New York
Law Clerk

1984 – 1985

PUBLISHED CASES

Armstrong v. Brown, 103 F. Supp. 3d 1070 (N.D. Cal. 2015)
Hernandez v. County of Monterey, 110 F. Supp. 3d 929 (N.D. Cal. 2015)
Hernandez v. County of Monterey, 305 F.R.D. 132 (N.D. Cal. 2015)
Sassman v. Brown, 99 F.Supp.3d 1223 (E.D. Cal 2015)
Sassman v. Brown, 73 F.Supp.3d 1241 (E.D. Cal. 2014)
Hernandez v. County of Monterey, 70 F. Supp. 3d 963 (N.D. Cal. 2014)
Armstrong v. Brown, 732 F.3d 955 (9th Cir. 2013), *cert denied*, 134 S. Ct. 2725 (2014)
Ramirez v. Ghilotti Bros. Inc., 941 F. Supp. 2d 1197 (N.D. Cal. 2013)
Armstrong v. Brown, 939 F. Supp. 2d 1012 (N.D. Cal. 2013)
Armstrong v. Brown, 857 F. Supp. 2d 919 (N.D. Cal. 2012)
Armstrong v. Brown, 805 F. Supp. 2d 918 (N.D. Cal. 2011)
Armstrong v. Schwarzenegger, 622 F.3d 1058 (9th Cir. 2010)
L.H. v. Schwarzenegger, 645 F. Supp. 2d 888 (E.D. Cal 2009)
L.H. v. Schwarzenegger, 519 F. Supp. 2d 1072 (E.D. Cal. 2007)
Sacramento Old City Assn. v. City Council, 229 Cal. App. 3d 1011 (1991)
AFL-CIO v. Deukmejian, 212 Cal. App. 3d 425 (1989)
Patel v. Quality Inn South, 846 F.2d 700 (11th Cir. 1988)
International Union, United Automobile, Aerospace and Agricultural Implement Workers v. Brock, 816 F.2d 761 (D.C. Cir. 1987)
K & M Glass Co. v. International Brotherhood of Painters,
121 L.R.R.M. 3005 (N.D. Cal. 1986)
County of Los Angeles v. State of California, 43 Cal. 3d 46 (1987)

PUBLICATIONS

“Ending Sexual Orientation Discrimination in Employment,” *The Recorder* (February 16, 2018) (with Marc J. Shinn-Krantz); “The Consequences of Not Responding to Sexual Harassment Allegations,” *The Recorder* (March 28, 2017) (with Krista Stone-Manista); “More women lawyers taking pay equality to court,” *San Francisco Daily Journal* (October 13, 2016) (with Jenny Yelin); “Putting parenting on a firm basis,” *San Francisco Attorney* (Summer 2015) (with Jenny Yelin); “Privilege when firms advise themselves,” *San Francisco Daily Journal* (April 3, 2015) (with Sarah Poppy Alexander); “Construction’s Wage and Hour Woes,” *The Recorder*, (November 4, 2013) (with Megan Sallomi); “Your First Three Years,” *The Recorder* (January 7, 2013); “Enforcing Settlement Agreements,” *The Recorder* (November 5, 2012) (with Benjamin Bien-Kahn); “Challenges to an at-large election system,” *The Recorder* (September 24, 2012) (with Blake Thompson); “Expanding Partnership Liability,” *The Recorder* (July 16, 2012) (with Elizabeth Avery); “Navigating Expert Witness Disclosure in Federal Courts,” *The Recorder* (February 20, 2012) (with Blake Thompson); “Know What Not to Ask,” *The Recorder* (November 10, 2011) (with Alyce Perry); “How Businesses Can Protect Their Valuable Trade Secrets,” *San Francisco Daily Journal* (September 26, 2011) (with Aaron J. Fischer); “Get the

Most Out of Your Expert,” *The Recorder* (April 27, 2011) (with Blake Thompson); “A Picture is Worth a Thousand Words,” San Francisco *Daily Journal* (March 23, 2011) (with Leslie Thornton); “No Time To Waste,” *The Recorder* (November 16, 2009) (with Amy Whelan); “Cases of Two Women Illustrate Harm of Mandatory Arbitration Clauses,” San Francisco *Daily Journal* (August 7, 2009) (with Nura Maznavi); “Without Reform, California’s Juvenile Justice System Will Condemn Youth To Bleak Future,” San Francisco *Daily Journal* (October 8, 2007) (with Michael W. Bien); “Some Reflections on Conflicts Between Government Attorneys and Clients” 1 *Touro L. Rev.* 1 (1985) (with Jack B. Weinstein); “Article III Problems in Enforcing the Balanced Budget Amendment,” 83 *Colum. L. Rev.* 1065 (1983).

PRESENTATIONS

- Moderator, “Women in the Courtroom,” *Daily Journal* Women Leadership in Law Conference, November 15, 2018, San Francisco, California
- Moderator, “Women and Diverse Lawyers and Business Development,” *Daily Journal* Women Leadership in Law Conference, November 15, 2018, San Francisco, California
- Moderator, “The Opioid Crisis: Its Genesis, National Implications, and Potential Solutions,” Ninth Circuit Judicial Conference, July 25, 2018, Anaheim, California
- Panelist, Labor & Employment Roundtable, *California Lawyer*, November 2017
- Moderator, “Best Practices for Promoting Fair Pay,” Association of Corporate Counsel Diversity and Inclusion Committee Event Featuring Equal Rights Advocates, September 8, 2016
- Panelist, Labor & Employment Roundtable, *California Lawyer*, May 2016
- “Rule 23(b)(2) Revisited: Institutional Reform Cases,” Panel at the Impact Fund’s 12th Annual Class Action Conference Agenda, February 28, 2014
- “How to Litigate a Wage and Hour Case: Challenges with Representing Foreign Language FLSA Clients,” American Association of Justice Annual Conference, July 26, 2013, San Francisco, California
- “Let’s Get Real: From ‘Win – Win’ to ‘Can Live With – Can Live With,’” ABA Section of Dispute Resolution Spring Conference, April 5, 2013, Chicago Illinois
- “Representing Classes with Special Challenges,” Impact Fund, 11th Annual Class Action Conference, March 1, 2013, Berkeley, California
- “ADA in Jails & Prisons,” Workshop at the 2010 Training & Advocacy Support Center of the National Disability Rights Network, P & A/CAP Annual Conference, June 10, 2010, Los Angeles, California



- “Due Process for Juvenile Parolees: What Comes Next After *L.H. v. Schwarzenegger?*,” Administrative Office of the Courts’ Beyond the Bench XIX: Communicating and Collaborating Conference, December 11-12, 2008, San Francisco, California

EDUCATION

Columbia Law School, New York, New York

J.D., 1984

Articles Editor, Columbia Law Review
 Harlan Fiske Stone Scholar, 1982, 1983, 1984
 Charles Bathgate Beck Prize in Property
 Parker School Recognition in Foreign and International Law, with Honors
 Public Interest Law Foundation
 Teaching Fellow in Property

Wellesley College, Wellesley, Massachusetts

B.A. (Philosophy), 1981

Phi Beta Kappa
 Graduated Durant Scholar (highest honors)

BAR ADMISSIONS

State Bar of California, No. 121944 (1985)

PROFESSIONAL AWARDS AND HONORS

Daily Journal Top 100 Lawyers in California (2014, 2015, 2016)
Daily Journal Top Women Lawyers (2011-2018)
 Equal Rights Advocates Gender Justice Honoree (2016)
Best Lawyers in America, Employment Law (2016, 2017)
 Northern California “Super Lawyer” in General Litigation (Top 100) (2012, 2016) (Top 50 Women) (2012, 2013, 2014, 2015, 2016, 2017)
California Lawyer Attorneys of the Year Award (“CLAY”) (2013, 2016)
The Recorder, Attorney of the Year (2012)
 California Women Lawyers’ Fay Stender Award (1995)
 Martindale Hubbell AV Peer Review Rated

PROFESSIONAL AFFILIATIONS AND ACTIVITIES

Member, Circuit Executive Committee, Ninth Circuit Court of Appeals (2017 – present)
 Representative, Lawyers Representative Committee, N.D. Cal. (2014 – 2017)
 Trustee, San Francisco Law Library (2016 – Present)
 Co-chair, Rights of Women, ABA Section of Individual Rights and Responsibilities (IR &R) (2014 – 2015)
 Board of Directors, Equal Rights Advocates (2011 – 2017); Vice Chair (2013 – 2017)
 Member, Committee on Gender Equity, California Women Lawyers (2012 – 2014)
 Judge *Pro Tempore*, San Francisco Superior Court (2004 – 2007, 2012)
 Judicial Arbitrator, Santa Clara Superior Court (2004 – 2005)
 Judge *Pro Tempore*, Santa Clara Superior Court (2004 – 2005)
 Pro Bono Counsel, Adolescent Counseling Services (2003 – 2004)



Member, Santa Clara County Bar Association (2001 – 2005)
Member, Palo Alto Bar Association (2001 – 2005)
Member, San Mateo County Bar Association (2001 – 2005)
Member, Bar Association of San Francisco (1985 – 1997; 2005 – Present)
Member, Equal Rights Advocates Development Committee (1998 – 2001)
Member, San Francisco Chronicle Community Advisory Board (1995)
President, San Francisco Women Lawyers Alliance (1992 – 1993)
President, SFWLA Foundation (1990 – 1993)
Director, SFWLA (1988 – 1993)
Member, Coalition to Prevent Lead Poisoning (1992)
Director, Northern California Service League (1988 – 1990)

Exhibit B

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10 NATIONAL FEDERATION OF THE
11 BLIND OF CALIFORNIA, et al.,
12 Plaintiffs,
13 v.
14 UBER TECHNOLOGIES, INC.,
15 Defendant.

16 Case No.14-cv-04086-NC

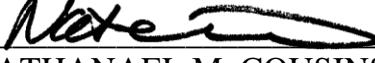
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28 **ORDER ON MOTION FOR
ATTORNEYS' FEES AND COSTS**

The Court previously found that plaintiffs were entitled to their attorneys' fees and costs as requested, with a multiplier of 1.5. Dkt. No. 139. Having considered plaintiffs' proposed order and Uber's objections (dkt. nos. 142, 143), the Court awards the following to be paid within thirty days:

Category	Amount
Attorneys' Fees (not related to fee request)	\$1,589,124.00
1.5 Multiplier Enhancement	\$794,562.00
Costs	\$13,447.14
Attorneys' Fees (related to fee request through September 9, 2016)	\$87,938.00
Total	\$2,485,071.14

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2 **IT IS SO ORDERED.**
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4 Dated: December 15, 2016
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NATHANAEL M. COUSINS
United States Magistrate Judge

United States District Court
Northern District of California

1 MARY-LEE SMITH – Cal. Bar No. 239086
2 JULIA MARKS – Cal. Bar No. 300544
3 DISABILITY RIGHTS ADVOCATES
4 2001 Center Street, Fourth Floor
5 Berkeley, California 94704-1204
6 Telephone: (510) 665-8644
7 Facsimile: (510) 665-8511
8 TTY: (510) 665-8716
9 Email: msmith@dralegal.org

10 TIMOTHY ELDER – Cal. Bar No. 277152
11 TRE LEGAL PRACTICE
12 4226 Castanos Street
13 Fremont, California 94536
14 Telephone: (410) 415-3493
15 Facsimile: (888) 718-0617
16 Email: telder@trelegal.com

17 MICHAEL W. BIEN – Cal. Bar No. 096891
18 ERNEST GALVAN – Cal. Bar. No. 196065
19 MICHAEL S. NUNEZ – Cal. Bar No. 280535
20 ROSEN BIEN GALVAN & GRUNFELD LLP
21 50 Fremont Street, 19th Floor
22 San Francisco, California 94105-2235
23 Telephone: (415) 433-6830
24 Facsimile: (415) 433-7104
25 Email: mbien@rbgg.com

26 Attorneys for Plaintiffs

27

28 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20 NATIONAL FEDERATION OF THE
21 BLIND, NATIONAL FEDERATION OF
22 THE BLIND OF CALIFORNIA,
MICHAEL KELLY, MICHAEL
HINGSON, and MICHAEL PEDERSON,

23 Plaintiffs,

24 v.

25 UBER TECHNOLOGIES, INC.

26 Defendant.

27 Case No. 3:14-cv-04086-NC

28 **[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FEES
AND COSTS**

Judge: Hon. Magistrate Nathanael
Cousins

Date: December 1, 2016

Time: 1:00 p.m.

Crtrm.: D, 450 Golden Gate Avenue,
San Francisco, CA 94102

1 for this complex and novel litigation venued in the San Francisco Bay Area. (Dkt. Nos.
 2 129-4 ¶¶ 11-14; 133-5 ¶¶ 9-13.) The rates referenced in the Pearl declaration are more in
 3 line with the relevant market. (Dkt. No. 119-4.) The Court has considered the proffered
 4 distinction between large and small firm rates. Plaintiffs have presented sufficient
 5 evidence to show that attorneys in small firms charge and are awarded rates comparable to
 6 those in large firms. *See Charlebois v. Angels Baseball LP*, 993 F. Supp. 2d 1109, 1120-
 7 1121 (C.D. Cal. 2012); *Building a Better Redondo, Inc. v. City of Redondo Beach*, 203 Cal.
 8 App. 4th 852, 873 (2012). The Laffey Matrix is not a benchmark generally used in the
 9 Ninth Circuit. *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010).
 10 To the extent that the Laffey Matrix is relevant, Plaintiffs have presented evidence that the
 11 rates sought here are in line with a version of the Laffey Matrix that has been adjusted to
 12 more closely reflect market rates. (Pearl Reply Decl. Dkt No. 129-4 ¶ 18-19.) The Court
 13 has considered all arguments regarding the rates, including that the rates for the more
 14 experienced billers, Mr. Bien and Mr. Paradis, are high. The Court finds that Mr. Bien and
 15 Mr. Paradis are exceptional attorneys who have done exceptional work, and that their rates
 16 are reasonable based on their experience and accomplishments. The rates awarded are as
 17 follows:

Class	Name	Graduation Year	Rate
Partner/Director	Michael Bien	1980	\$900
	Laurence Paradis	1985	\$895
	Ernest Galvan	1997	\$740
	Mary-Lee Smith	2005	\$645
Attorney	Timothy Elder	2010	\$475
	Michael Nunez	2011	\$460
	Julia Marks	2014	\$355
Law Student	Erik Monek Anderson		\$280
	Da Hae Kim		\$280
Paralegal	Karen Stilber	N/A	\$300
	Greg Gonzalez	N/A	\$275
	Layla Oghabian	N/A	\$275
	Kyle Ruiz	N/A	\$275
	Rachel Smith		\$275

1 2016 was unnecessary because on that date the parties notified the Court of a possible
 2 settlement. The parties moved to vacate trial deadlines in January 2016 (Dkt No. 70). The
 3 Court partially granted the motion, postponing commencement of trial from April 18, 2016
 4 to June 13, 2016, and vacating pre-trial deadlines. (Dkt. No. 71.) The Court made clear
 5 for the following four months that pre-trial deadlines would be reinstated if a settlement
 6 was not promptly entered. Under those circumstances, the Court finds it reasonable that
 7 plaintiffs' counsel continued to prepare for trial after January and even until April when a
 8 final settlement was entered on the docket. Considering all arguments, the Court
 9 concludes that plaintiffs' request for fees and costs are reasonable and GRANTS the
 10 motion.

11 12. The hours awarded on the merits, exclusive of fees work, are summarized by
 12 timekeeper below:

13 Class	14 Name	15 Hours Awarded	16 Rate	17 Amount
18 Partner/Director	19 Michael Bien	20 139	21 \$900	22 \$125,100.00
23	24 Laurence Paradis	25 508.9	26 \$895	27 \$455,465.50
28 Attorney	29 Timothy Elder	30 598.3	31 \$475	32 \$284,192.50
33	34 Michael Nunez (DRA)	35 368.4	36 \$460	37 \$169,464.00
38	39 Michael Nunez (RBGG)	40 516.4	41 \$460	42 \$237,544.00
43	44 Julia Marks	45 685.9	46 \$355	47 \$243,494.50
48 Law Student	49 Erik Monek Anderson	50 18.6	51 \$275	52 \$5,115.00
53	54 Da Hae Kim	55 3.7	56 \$280	57 \$1,036.00
58 Paralegal	59 Karen Stilber	60 9.1	61 \$300	62 \$2,730.00
63	64 Greg Gonzalez	65 58.3	66 \$275	67 \$16,032.50
68 Paralegal	69 Layla Oghabian	70 26.6	71 \$275	72 \$7,315.00
73	74 Kyle Ruiz	75 32.8	76 \$275	77 \$9,020.00

Class	Name	Hours Awarded	Rate	Amount
	Rachel Smith	118.6	\$275	\$32,615.00
TOTAL		3084.6		\$1,589,124.00 ¹

13. In addition to reasonable attorneys' fees, Plaintiffs request a multiplier of 2.0 under California law. A multiplier is permitted under California law to allow plaintiffs to be compensated for the real market value of their work, which includes a certain amount of risk absorbed by counsel when working on contingency. *See Ketchum v. Moses*, 24 Cal. 4th 1122, 1136 (2001) ("The experience of the marketplace indicates that lawyers generally will not provide legal representation on a contingent basis unless they receive a premium for taking that risk.") The parties agree that this Court has the discretion to award a multiplier in this case under applicable California law.

14. The Court considers the most analogous case cited by the parties: *Nat'l Fed'n of the Blind v. Target Corp.*, No. 06-cv-01802 MHP, 2009 WL 2390261 (N.D. Cal. Aug. 3, 2009). In *Target*, plaintiffs sought to make Target's online platform accessible to blind web users. *Id.* at *1. There, Judge Patel found that a 1.65 multiplier was appropriate in a case with significant motion practice, including contested motions to dismiss, for preliminary injunction, class certification, and summary judgment. *Id.* at *9.

15. In this case, the Court finds that Plaintiffs sought to enhance Uber's policies to protect blind riders, which can provide a model for other businesses in the sharing economy. Additionally, Plaintiffs faced a significant hurdle in overcoming the motion to dismiss, and took on the risk associated with raising novel legal issues in complex areas of jurisdictional, employment, and discrimination law. Thus, the Court finds that here, a multiplier of 1.5 is appropriate to fully award plaintiffs for the fair market value of their

¹ This amount was shown as \$1,589,574 in Exhibit A to the Elder Declaration, Dkt. No. 116-2. Plaintiffs filed an erratum the next day, correcting this sum to \$1,589,124. (Galvan Decl. Dkt. No. 123-2, Exhibit 1.)

1 work in taking on this case.

2 16. Plaintiffs' counsel are entitled to recover the expenses advanced to prosecute
3 this litigation on behalf of the class. Plaintiffs have incurred costs and expenses of
4 \$13,447.14. These financial outlays include but are not limited to expenses related to
5 copying, legal research, an expert consultant, telephone calls, postage, service of process,
6 and travel. The costs and expenses submitted by Plaintiffs' counsel are reasonable,
7 appropriate, and fully compensable.

8 17. Plaintiffs' counsel seeks fees and costs for work on this fees application
9 through September 9, 2016. During the oral argument the Court asked Plaintiffs' counsel
10 whether this motion for fees and costs would be updated to include time after the
11 September 9, 2016 cut-off. Plaintiffs' counsel suggested that rather than updating the
12 instant motion, any such time be included with the first annual fees and costs submission
13 as set forth in the Settlement Agreement at § 11-C-2, Dkt. No. 85-1. Counsel for
14 Defendant reserves the right to object to the reasonableness of such fees and costs. With
15 this application, however, Plaintiffs have documented 242.4 hours of work on the fees
16 application, of which they have voluntarily written down 58.7 hours, or 24.2% of the hours
17 worked, leaving a claim of 183.7 hours, in the amount of \$87,938. (Elder Declaration,
18 Exhibit B, Dkt. No. 119-2.) The Court has considered the Defendant's arguments and
19 declarations in opposition to this amount, and finds that the amount sought is reasonable
20 for the work performed through September 9, 2016, and awards the following amounts for
21 the fees application work through that date, with no enhancer:

Class	Name	Hours Awarded	Rate	Amount
Partner/Director	Ernest Galvan	17.6	\$740	\$13,024.00
	Mary-Lee Smith	7.3	\$645	\$4,708.50
Attorney	Timothy Elder	89.8	\$475	\$42,655.00
	Michael Nunez	29.1	\$460	\$13,386.00
	Julia Marks	39.9	\$355	\$14,164.50
TOTAL		183.7		\$87,938.00

Exhibit C

COPY

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**ENDORSED
FILED**
San Francisco County Superior Court

FEB 02 2010

GORDON PARK-LI, Clerk
BY: JOCELYN C. ROQUE
Deputy Clerk

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9 Attorneys for Defendant KENNETH WALCZAK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

13 WAUKEEN McCOY) CASE NO. CGC 09 493150
14 dba LAW OFFICES OF WAUKEEN McCOY,)
15 Plaintiff,) [PROPOSED] ORDER GRANTING
16 v.) DEFENDANT KENNETH WALCZAK'S
17 KENNETH WALZAK, as an individual and) MOTION TO STRIKE PLAINTIFF'S
18 DOES 1 through 10,) COMPLAINT PURSUANT TO CODE OF
19) CIVIL PROCEDURE §425.16
20) Date: February 2, 2010
21) Time: 9:30 a.m.
Defendant.) Dept.: 301
) Hon. Peter Busch
)
)
)
)
)

23 The Special Motion to Strike Plaintiff WAUKEEN McCOY dba LAW OFFICES OF
24 WAUKEEN McCOY's ("McCoy") Complaint for defamation pursuant to California Code of Civil
25 Procedure §425.16, by defendant KENNETH WALCZAK ("Walczak") came on regularly for
26 hearing on February 2, 2010, at 9:30 a.m. in Department 301 of the above-mentioned Court. All
27 appearances are as noted in the record. The preceding day the Court issued its tentative ruling as

1 follows:

2 "Defendant Kenneth Walczak's Motion to Strike Complaint is Granted; Plaintiff's
3 Complaint arises in material part from protected conduct and Plaintiff has not
4 presented admissible evidence showing a *prima facie* case of success on the merits
given that the statement in a pleading is privilege[d] and no evidence is offered of
any other statement."

5 After full consideration of the evidence and full briefing on the Motion and all supporting
6 documents, together with oral argument of counsel and all papers and records on file herein, and
7 good cause appearing therefor, the Court's tentative ruling shall be adopted.

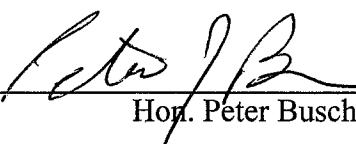
8 **IT IS HEREBY ORDERED** that Walczak's Special Motion to Strike McCoy's Complaint
9 for defamation pursuant to Code of Civil Procedure § 425.16 is GRANTED.

10 The statements alleged in the Complaint are protected under Code of Civil Procedure
11 §425.16 because they constitute free speech in connection with a public issue and are subject to the
12 litigation privilege. Furthermore, McCoy cannot establish a probability of prevailing ~~not only~~
13 because ~~any~~ ^{the} alleged statements ^{in a pleading} attributed to Walczak are protected by the litigation privilege, ~~but~~
14 ~~and McCoy has presented no evidence of any other~~
15 ~~also because there is significant evidence that McCoy has in fact repeatedly lied on the record and~~
16 ~~statements~~
17 ~~under oath in the federal court action, and because McCoy cannot show by clear and convincing~~
18 ~~evidence that Walczak's statements were made with actual malice as he is required to do as a~~
19 ~~limited purpose public figure. McCoy is denied leave to amend his Complaint as leave to amend is~~
20 ~~not permitted following an order granting a special motion to strike.~~

21 **IT IS FURTHER ORDERED** that Walczak be deemed the prevailing party as to the
22 hearing on his Special Motion to Strike McCoy's Complaint pursuant to Code of Civil Procedure
23 §425.16.

24
25 **IT IS SO ORDERED.**

26
27
28 DATED: 2/21/10


Hon. Peter Busch

Filed 10/21/11 McCoy v. Walczak CA1/4

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

WAUKEEN MCCOY,
Plaintiff and Appellant,
v.
KENNETH WALCZAK,
Defendant and Respondent.

A129671

(San Francisco County
Super. Ct. No. CGC09493150)

Plaintiff Waukeen McCoy appeals an order granting defendant Kenneth Walczak's¹ motion for attorney fees, which was made after the trial court granted Walczak's special motion to strike pursuant to Code of Civil Procedure² section 425.16 (the anti-SLAPP motion). He contends the motion for attorney fees was untimely, and that the award was excessive. We shall affirm the order.

¹ Kenneth Walczak's name is misspelled as "Walzak" in parts of the record, including the case caption below.

² All statutory references are to the Code of Civil Procedure. All rule references are to the California Rules of Court.

I. BACKGROUND

Walczak filed a special motion to strike McCoy's action against him for defamation, and on February 2, 2010, the trial court granted the motion and found Walczak to be the prevailing party.³

Walczak filed a motion for attorney fees on April 2, 2010. His counsel on the motion were the law firms of Lewis Brisbois Bisgaard & Smith LLP (Lewis Brisbois), and Rosen, Bien & Galvan, LLP (Rosen Bien). At the May 18, 2010, hearing on the motion, the trial court ruled that Walczak was entitled to fees for the work of both firms, but said the record was inadequate for it to determine the proper amount of fees, and that it was "inclined to deny this without prejudice to its being renewed."

On July 21, 2010, the trial court issued a written order denying the motion for attorney fees without prejudice to renewing the motion, stating in its order that it could not evaluate the request because the motion did not provide any breakdown on how the time was spent, "especially given the relatively high amount of award sought, and the sequential involvement of 2 firms." The court denied the motion "without prejudice to renewing on an adequate factual record." The court expressly found, however, that Walczak was entitled to recover his reasonable attorney fees, and ordered that the issue in the renewed motion would be limited to the reasonableness of the fees Walczak sought. The court concluded, "Mr. Walczak shall be permitted to renew his Motion for Reasonable Attorneys' Fees and Costs Following Successful Anti-SLAPP Motion."

Walczak filed his renewed motion for attorney fees on July 23, 2010. The renewed motion included detailed billing records from both law firms. The trial court awarded Walczak \$92,898 in attorney fees.

³ The "Factual and Procedural Background" section of McCoy's opening brief contains two pages of factual assertions unsupported by any citations to the record. We remind the parties of their duty to provide adequate record citations. (See *Bernard v. Hartford Fire Ins. Co.* (1991) 226 Cal.App.3d 1203, 1205.)

II. DISCUSSION

A. Timeliness of Renewed Motion For Attorney Fees

McCoy contends Walczak's renewed motion for attorney fees was untimely. Rule 3.1702, subdivision (b)(1) provides that a motion for attorney fees must be served and filed within the time for filing a notice of appeal—in this case, within 60 days of February 4, 2010, the date the notice of entry of order granting the anti-SLAPP motion was served. (Rule 8.104, subd. (a)(2); see also *American Humane Assn. v. Los Angeles Times Communications* (2001) 92 Cal.App.4th 1095, 1104 [prevailing party on anti-SLAPP motion may seek fees as permitted by predecessor to rule 8.104].) However, “[f]or good cause, the trial judge may extend the time for filing a motion for attorney's fees in the absence of a stipulation” (Rule 3.1702, subd. (d).) “[I]t [is] settled that the time limitation set out in [the predecessor to rule 3.1702] is . . . not jurisdictional in character and that a trial court has broad discretion in allowing relief from a late filing where . . . there is an absence of a showing of prejudice to the opposing party.’ [Citation.]” (*Gunlock Corp. v. Walk on Water, Inc.* (1993) 15 Cal.App.4th 1301, 1304.)

The initial motion for attorney fees was filed within this 60-day window. After the trial court denied the motion without prejudice to filing a renewed motion, Walczak filed a renewed motion, outside the 60-day window.

The subject of the timing of the renewed motion was discussed at the May 18, 2010, hearing on the initial motion. After the trial court stated it was inclined to deny the motion without prejudice to its being renewed, counsel for Walczak said, “I'm not here to contest the tentative, but I did want to clear with the Court a proposed timeline for renewing the motion so that we can give the Court an adequate factual record on which to base an award.” The court replied, “I think you'd be free to just file it on regular notice, unless there's something I'm missing that would prevent that.” Counsel for Walczak continued, “And I don't know that there is anything, Your Honor. I just wanted it to be clear that we may renew the motion in, say, 30 days from notice of entry of order or something along those lines, and I wanted to make sure that that was acceptable to the Court.” The court asked counsel for McCoy to respond, and he said, “Your Honor, we're

not too concerned about the timeline the Court sets out. We just—again, if the motion is renewed, we would like to bring our arguments again regarding the entitlement to fees.” After further argument, the court ruled that Walczak was entitled to fees. The trial court later issued its order denying the motion without prejudice and permitting Walczak to renew his motion to argue the limited issue of the reasonable amount of fees.

In his opposition to the renewed motion for attorney fees, McCoy argued the fee request was untimely because it did not fall within the time limits of rule 3.1702. The trial court rejected this argument, ruling, “Defendant timely filed a notice of motion claiming fees, which preserved jurisdiction to determine the amount of an award.”

McCoy argues on appeal that the trial court did not extend the time for Walczak to file his renewed motion for attorney fees, and that the renewed motion was therefore untimely. We reject this contention. Although the trial court did not state expressly that it was extending the time to file a renewed motion pursuant to rule 3.1702, it is clear that both the court and the parties understood that Walczak would be permitted to file a renewed motion to complete the task of demonstrating the amount of fees to which the court had ruled he was entitled. It is also clear that McCoy suffered no prejudice. The order denying the initial motion was signed on July 20, 2010, and filed on July 21, 2010. Two days later, on July 23, 2010, Walczak filed his renewed motion.

In the circumstances, we conclude the trial court properly exercised its discretion to allow Walczak to file his renewed motion after the 60-day period contemplated by rule 3.1702 had passed.

B. Reasonableness of Fees

McCoy also contends the fees the trial court awarded were excessive. “Section 425.16, subdivision (c) makes an award of attorney fees to a defendant, who prevails on an anti-SLAPP motion, mandatory. [Citation.] We review the amount of attorney fees awarded for abuse of discretion. [Citation.] A trial court’s attorney fee award will not be set aside ‘absent a showing that it is manifestly excessive in the circumstances.’ [Citation.]” (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375.)

McCoy's first contention is that Lisa Ells, an associate at Rosen Bien who graduated from law school in 2005, billed an excessive number of hours (34.3) in drafting the special motion to strike given that she was not the lead attorney.⁴ He also argues that “[t]he number of hours billed for certain tasks does not reflect their alleged level of expertise,” but he does not tell us which tasks he has in mind or to whom he is referring.

The amount of attorney fees following a successful anti-SLAPP motion is calculated in accordance with the “lodestar” method. (*Cabral v. Martins* (2009) 177 Cal.App.4th 471, 491.) Under that method, “ ‘a court assessing attorney fees begins with a touchstone or lodestar figure, based on the “careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case.” [Citation.]’ ” (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579.) This lodestar “ ‘is the basic fee for comparable legal services in the community; it may be adjusted by the court based on factors including . . . (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award. [Citation.] The purpose of such adjustment is to fix a fee at the fair market value for the particular action.’ ” (*Ibid.*) “In challenging attorney fees as excessive because too many hours of work are claimed, it is the burden of the challenging party to point to the specific items challenged, with a sufficient argument and citations to the evidence. General arguments that fees claimed are excessive, duplicative, or unrelated do not suffice.” (*Premier Medical Management Systems, Inc. v. California Ins. Guarantee Assn.* (2008) 163 Cal.App.4th 550, 564 (*Premier Medical*)).

Walczak presented evidence that the billing rates for the attorneys who represented him, including Ells, were well within the reasonable range for attorneys in the San Francisco Bay Area with comparable skills, reputation, and experience. McCoy

⁴ In his reply brief, McCoy argues the fees were so excessive as to shock the conscience, citing as an example Ells's billing of “\$34,419.00 for 34.3 hours of work, or \$1003.47 per hour for a third year junior associate’s work.” McCoy is mistaken. Ms. Ells logged 104.3 total hours of work.

draws our attention to nothing in the record suggesting otherwise. We therefore reject his challenge to the billing rates.

McCoy also asserts that the fees awarded were duplicative. Walczak was an associate at Rosen Bien. It appears that McCoy brought the defamation action against him based on events in two underlying lawsuits in federal court. Walczak was initially represented in the defamation action by Rosen Bien. Rosen Bien's insurance carrier later retained Lewis Brisbois to defend Walczak. Walczak presented evidence that Peter Dixon, the partner at Lewis Brisbois assigned to the case, was in trial at the time of the tender, and the record in the case underlying the defamation action was extensive and complex. Because the 60-day period for filing an anti-SLAPP motion was running (see § 425.16, subd. (f)), Rosen Bien began working on the motion, and collaborated with Lewis Brisbois on strategic matters. After counsel at Lewis Brisbois became "fully engaged," Rosen Bien principally "provid[ed] factual support, strategic insight and background information relevant to the finalizing of the anti-SLAPP motion, with the exception of limited research and drafting assistance" provided by Ells.

McCoy contends the involvement of the two firms led to duplication of effort and fees. He argues that Lewis Brisbois attorneys claimed over 32 hours of work during the period the Lewis Brisbois partner was involved in the unrelated trial; that Rosen Bien claimed more than 36 hours of work during the same period; that in total Lewis Brisbois claimed 33.1 hours and Rosen Bien claimed 57.7 hours to draft the anti-SLAPP motion and accompanying documents; and that more than 12 hours of that time was spent in conference calls and correspondence " 'strategizing' " the motion.

As noted in *Premier Medical*, "[c]ollaboration does not necessarily amount to duplication that is not compensable under section 425.16, subdivision (c)." (*Premier Medical, supra*, 163 Cal.App.4th 550 at p. 562.) Rather, it is the duty of the party challenging the fee award to present evidence that the award is based on unnecessary or duplicative work. (*Ibid.*; see also *Braun v. Chronicle Publishing Co.* (1997) 52 Cal.App.4th 1036, 1052-1053; *Tuchscher Development Enterprises, Inc. v. San Diego*

Unified Port Dist. (2003) 106 Cal.App.4th 1219, 1248.) McCoy's conclusory complaints about the amount of time the attorneys spent come nowhere near meeting this burden.

Moreover, in awarding \$92,898 in attorney fees, the trial court deducted nearly \$16,000 from the amount sought by Walczak, stating as it did so: "In arriving at this fee award, the Court has carefully reviewed the time records submitted by Mr. Walczak, and has eliminated any duplicative, inefficient and/or otherwise inappropriately claimed hours." McCoy makes no attempt to show that any duplicative hours exceeded this reduction in the fee award.

III. DISPOSITION

The order appealed from is affirmed.

RIVERA, J.

We concur:

RUVOLO, P.J.

SEPULVEDA, J.

Exhibit D

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2 CORENE KENDRICK – 226642
3 RITA K. LOMIO – 254501
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9 MICHAEL FREEDMAN – 262850
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16 LINDA D. KILB – 136101
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18 DEFENSE FUND, INC.
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15 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

20 JOHN ARMSTRONG, et al.,
21 Plaintiffs,
22 v.
23 EDMUND G. BROWN, JR., et al.,
24 Defendants.

Case No. C94 2307 CW

**[PROPOSED] STIPULATED ORDER
CONFIRMING UNDISPUTED
ATTORNEYS' FEES AND COSTS
FOR THE THIRD QUARTER OF 2018**

Judge: Hon. Claudia Wilken

1 On March 26, 1997, the District Court established procedures by which Plaintiffs
2 are to collect periodic attorneys' fees and costs in this case in connection with their work
3 monitoring Defendants' compliance with the Court's Orders and collecting fees.

4 Pursuant to these procedures, on October 30, 2018, Plaintiffs served on Defendants
5 their Third Quarterly Statement for 2018 by overnight delivery. The parties completed
6 their meet-and-confer process on December 20, 2018 as to the fees and costs incurred on
7 all matters.

8 As a result of the December 20, 2018 agreement, the parties agree to the following:

9 The parties agree to the payment of \$1,276,269.95 to resolve all fees and costs
10 incurred during the Third Quarter of 2018, for monitoring and/or litigation activities in the
11 California Department of Corrections and Rehabilitation Division of Adult Operations and
12 Adult Programs (CDCR AOAP) portion of the case. Attached hereto as **Exhibit A** are
13 charts setting forth the fees and costs claimed by Plaintiffs and the amounts agreed to by
14 the parties to settle these claims.

15 The parties agree to the payment of \$101,394.75 to resolve all fees and costs
16 incurred during the Third Quarter of 2018, for monitoring and/or litigation activities in the
17 Board of Parole Hearings (BPH) portion of the case. Attached hereto as **Exhibit B** are
18 charts setting forth the fees and costs claimed by Plaintiffs and the amounts agreed to by
19 the parties to settle these claims.

20 The parties agree to the payment of \$175,080.54 to resolve all fees and costs
21 incurred during the Third Quarter of 2018, for monitoring and/or litigation activities in the
22 Division of Adult Parole Operations (DAPO) portion of the case. Attached hereto as
23 **Exhibit C** are charts setting forth the fees and costs claimed by Plaintiffs and the amounts
24 agreed to by the parties to settle these claims.

25 The parties agree to the payment of \$12,346.62 to resolve all fees and costs incurred
26 during the Third Quarter of 2018, for fees work. Attached hereto as **Exhibit D** are charts
27 setting forth the fees and costs claimed by Plaintiffs and the amounts agreed to by the
28 parties to settle these claims.

1 IT IS HEREBY ORDERED that the amounts set forth above are due and
2 collectable as of forty-five days from the date of entry of this Order. Interest on these fees
3 and costs will run from November 29, 2018, accruing at the rate provided by 28 U.S.C.
4 § 1961.

5
6 DATED: January 2, 2019



7
8
9 APPROVED AS TO FORM:

10
11 DATED: December 20, 2018

/s/ Sharon Garske
Sharon Garske
Deputy Attorney General
Attorney for Defendants

12
13 DATED: December 20, 2018

/s/Gay Crosthwait Grunfeld
Gay Crosthwait Grunfeld
Rosen Bien Galvan & Grunfeld LLP
Attorney for Plaintiffs

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EXHIBIT A

Armstrong v. Brown
Third Quarterly Statement of 2018
July 1, 2018 through September 30, 2018

CDCR/AOAP SUMMARY OF UNDISPUTED FEES AND COSTS

<u>MATTER</u>	<u>UNDISPUTED FEES</u>	<u>UNDISPUTED COSTS</u>
CDCR/AOAP MONITORING	\$1,239,090.72	\$37,179.23
TOTAL UNDISPUTED:		\$1,276,269.95

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
 Matter: CDCR/AOAP Monitoring/Merits

<u>Monitoring (581-3)</u>	Actual	Claimed	2018	Fees Now Owing
	Hours	Hours	Rates	Per Negotiated Compromise
<u>ROSEN, BIEN, GALVAN & GRUNFELD</u>				
Michael W. Bien (MWB)	1.60	1.60	\$965	\$1,544.00
Gay C. Grunfeld (GCG)	20.80	20.70	\$835	\$17,284.50
Penny Godbold (PG)	241.60	241.40	\$675	\$162,945.00
Thomas Nolan (TN)	119.80	119.80	\$700	\$83,860.00
Michael L. Freedman (MLF)	78.20	75.90	\$585	\$44,401.50
Ben Bien-Kahn (BBK)	67.20	65.50	\$535	\$35,042.50
Krista Stone-Manista (KSM)	8.50	8.50	\$535	\$4,547.50
Jenny Yelin (JY)	8.50	8.50	\$525	\$4,462.50
Kara J. Janssen (KJJ)	1.20	0.00	\$525	\$0.00
Karen Stilber (KES)	192.50	189.70	\$340	\$64,498.00
Linda Woo (LHW)	0.40	0.00	\$340	\$0.00
F. Gail LaPurja (FGL)	0.30	0.00	\$275	\$0.00
Greg Gonzalez (GZG)	23.30	23.30	\$275	\$6,407.50
Dylan Verner-Crist (DVC)	11.90	11.90	\$240	\$2,856.00
Maisy H. Sylvan (MHS)	57.50	51.90	\$225	\$11,677.50
Nathalie Welch (NW)	27.30	14.80	\$240	\$3,552.00
Hanna Wallace (HW)	317.30	312.10	\$225	\$70,222.50
Total Hours:	1,177.90	1,145.60		
RBGG FEES:			\$513,301.00	\$492,768.96
<u>PRISON LAW OFFICE</u>				
Donald Specter (DS)	22.60	22.60	\$965	\$21,809.00
Sara Norman (SN)	74.30	74.30	\$790	\$58,697.00
Rita Lomio (RL)	238.40	238.40	\$615	\$146,616.00
Thomas Nosewicz (TMN)	178.20	178.20	\$585	\$104,247.00
Margot Mendelson (MM)	101.30	101.30	\$535	\$54,195.50
Camille Woods (CW)	82.40	82.40	\$350	\$28,840.00
Amber Norris (AN)	202.20	202.20	\$335	\$67,737.00
Megan Lynch (ML)	262.30	262.30	\$335	\$87,870.50
Sarah Hopkins (SH)	222.10	222.10	\$300	\$66,630.00
Annalise Finney (AF)	44.70	44.70	\$300	\$13,410.00
Alayna O'Bryan	33.10	33.10	\$275	\$9,102.50
Tania Amarillas (TA)	95.10	95.10	\$275	\$26,152.50
Noah Breslau (NB)	28.50	28.50	\$275	\$7,837.50
Alexis Hoffman (AH)	79.90	79.90	\$275	\$21,972.50
Gabby Sergi (GS)	94.70	94.70	\$275	\$26,042.50
Stacy Amador (SA)	4.50	4.50	\$275	\$1,237.50
Gabriela Pelsinger (GP)	50.40	50.40	\$275	\$13,860.00
Juliette Mueller (JM)	75.90	75.90	\$275	\$20,872.50
Total Hours:	1,890.60	1,890.60		
PLO FEES:			\$777,129.50	\$746,044.32
<u>DISABILITY RIGHTS EDUCATION AND DEFENSE FUND</u>				
Case Clerk	1.70	1.70	\$170	\$289.00
Total Hours:	1.70	1.70		
DREDF FEES:			\$289.00	\$277.44
TOTAL CDCR/AOAP MONITORING FEES:				
			\$1,290,719.50	\$1,239,090.72

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
Costs

Matter: CDCR/AOAP Merits/Monitoring

	<u>Costs</u>	<u>Costs Now Owing</u>	<u>Per Negotiated</u>	<u>Compromise</u>
Rosen, Bien, Galvan & Grunfeld (581-3)				
Photocopying (In house)	\$1,771.60	\$1,700.74		
Photocopying/printing (Outside)	\$1,419.46	\$1,362.68		
Translation/Interpreter Services	\$2,680.00	\$2,572.80		
Online Research - PACER, Westlaw	\$2.05	\$1.97		
Postage & Delivery	\$149.58	\$143.60		
Telephone	\$18.90	\$18.14		
Travel - Mileage, Tolls, Food	\$9,842.70	\$9,448.99		
Total RBGG Costs:	\$15,884.29			\$15,248.92
Prison Law Office				
Photocopying (In house)	\$539.00	\$517.44		
Interpreting/Translation services	\$4,641.00	\$4,455.36		
Travel - Mileage, Tolls, Food	\$15,763.03	\$15,132.51		
Postage & Delivery	\$1,693.88	\$1,626.12		
Total PLO Costs:	\$22,636.91			\$21,731.43
Disability Rights Education & Defense Fund, Inc.				
Photocopying (in-house)	\$168.20	\$161.47		
Pacer	\$3.00	\$2.88		
Postage & Delivery	\$35.96	\$34.52		
Total DREDF Costs:	\$207.16			\$198.87
TOTAL CDCR/AOAP MERITS/MONITORING COSTS:	\$38,728.36			\$37,179.23

EXHIBIT B

Armstrong v. Brown
Third Quarterly Statement of 2018
July 1, 2018 through September 30, 2018

BPH SUMMARY OF UNDISPUTED FEES AND COSTS

<u>MATTER</u>	<u>UNDISPUTED FEES</u>	<u>UNDISPUTED COSTS</u>
BPH	\$99,847.20	\$1,547.55
TOTAL UNDISPUTED:	\$101,394.75	

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
Matter: BPH

<u>BPH (581-4)</u>	Actual	Claimed	2018	Fees Now Owing
	<u>Hours</u>	<u>Hours</u>	<u>Rates</u>	<u>Per Negotiated</u>
<u>BPH MONITORING (581-4)</u>				
<u>ROSEN, BIEN, GALVAN & GRUNFELD</u>				
Ernest Galvan (EG)	0.5	0	\$780	\$0.00
Gay C. Grunfeld (GCG)	7.60	7.60	\$835	\$6,346.00
Thomas Nolan (TN)	43.20	43.00	\$700	\$30,100.00
Penny Godbold (PG)	0.50	0.00	\$675	\$0.00
Karen Stilber (KES)	2.10	2.10	\$340	\$714.00
Hanna N. Wallace (HW)	2.50	2.50	\$225	\$562.50
Total Hours:	56.40	55.20		
RBGG FEES:			\$37,722.50	\$36,213.60
<u>PRISON LAW OFFICE</u>				
Sara Norman (SN)	4.10	4.10	\$790	\$3,239.00
Rita Lomio (RL)	47.10	47.10	\$615	\$28,966.50
Rana Anabtawi (RA)	63.70	63.70	\$535	\$34,079.50
Total Hours:	114.90	114.90		
PLO FEES:			\$66,285.00	\$63,633.60
TOTAL FEES FOR				
BPH WORK:			\$104,007.50	\$99,847.20

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
Costs

Matter: BPH

	<u>Costs</u>	<u>Costs Now Owing</u>	<u>Per Negotiated Compromise</u>
Rosen, Bien, Galvan & Grunfeld (581-4)			
Photocopying (In house)	\$134.60	\$129.22	
Interpreter/SLI	\$198.00	\$190.08	
Telephone	\$1.15	\$1.10	
Travel - Mileage, Tolls, Food	\$152.44	\$146.34	
Total RBGG Costs:	\$486.19		\$466.74
Prison Law Office			
Travel - Mileage, Tolls, Food	\$1,125.84	\$1,080.81	
Total PLO Costs:	\$1,125.84		\$1,080.81
TOTAL BPH COSTS:	\$1,612.03		\$1,547.55

EXHIBIT C

Armstrong v. Brown
Third Quarterly Statement of 2018
July 1, 2018 through September 30, 2018

DAPO SUMMARY OF UNDISPUTED FEES AND COSTS

<u>MATTER</u>	<u>UNDISPUTED FEES</u>	<u>UNDISPUTED COST</u>
DAPO MONITORING	\$171,723.84	\$3,356.70
TOTAL UNDISPUTED:		\$175,080.54

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
Matter: DAPO Monitoring

<u>DAPO Monitoring (581-9)</u>	Actual	Claimed	2018	Fees Now Owing <u>Per Negotiated Compromise</u>
	<u>Hours</u>	<u>Hours</u>	<u>Rates</u>	<u>Total</u>
<u>ROSEN, BIEN, GALVAN & GRUNFELD</u>				
Sanford Jay Rosen (SJR)	0.30	0.00	\$1,000	\$0.00
Gay C. Grunfeld (GCG)	12.40	12.40	\$835	\$9,939.84
Penny Godbold (PG)	33.90	33.90	\$675	\$21,967.20
Thomas Nolan (TN)	19.20	18.60	\$700	\$12,499.20
Michael L. Freedman (MLF)	29.90	28.10	\$585	\$15,780.96
Benjamin Bien-Kahn (BBK)	92.10	88.80	\$535	\$45,607.68
Kara J. Janssen (KJJ)	0.80	0.00	\$525	\$0.00
Krista Stone-Manista (KSM)	26.60	24.40	\$535	\$12,531.84
Jenny S. Yelin (JSY)	26.10	26.10	\$525	\$13,154.40
Karen Stilber (KES)	2.80	2.80	\$340	\$913.92
F. Gail LaPurja (FGL)	8.90	8.90	\$275	\$2,349.60
Marcus V. Levy (MVL)	0.20	0.00	\$275	\$0.00
Nathalie Welch (NCW)	197.70	160.50	\$240	\$36,979.20
Maisy Sylvan (MHS)	0.80	0.00	\$225	\$0.00
Hanna Wallace (HW)	0.60	0.00	\$225	\$0.00
Total Hours:	452.30	404.50		
RBGG FEES:			\$178,879.00	\$171,723.84
TOTAL DAPO MONITORING WORK				
FEES:			\$178,879.00	\$171,723.84

Armstrong v. Brown

Third Quarterly Statement of 2018
July 1, 2018 through September 30, 2018
Costs

Matter: DAPO Monitoring

<u>Rosen, Bien, Galvan & Grunfeld (581-9)</u>	<u>Costs</u>	<u>Costs Now Owing Per Negotiated Compromise</u>
Photocopying (in-house)	\$703.80	\$675.65
Photocopying (outside)	\$219.04	\$210.28
Interpreting/translation	\$392.50	\$376.80
Westlaw	\$30.81	\$29.58
Outside Postage & Delivery	\$28.00	\$26.88
Inhouse Postage	\$235.74	\$226.31
Long distance telephone charges	\$0.60	\$0.58
Travel - Mileage, Tolls, Food	\$1,886.07	\$1,810.63
Total RBGG Costs:	\$3,496.56	\$3,356.70
TOTAL DAPO MONITORING COSTS:	\$3,496.56	\$3,356.70

EXHIBIT D

Armstrong v. Brown
Third Quarterly Statement of 2018
July 1, 2018 through September 30, 2018

SUMMARY OF UNDISPUTED FEES WORK AND COSTS

	<u>UNDISPUTED FEES</u>	<u>UNDISPUTED COSTS</u>
FEES WORK (ALL MATTERS)	\$12,162.72	\$183.90
TOTAL UNDISPUTED:	\$12,346.62	

Armstrong v. Brown

Third Quarterly Statement of 2018
 July 1, 2018 through September 30, 2018
Matter: All Matters Fees Work

<u>Fees (581-2)</u>	Actual	Claimed	2018	Fees Now Owing	
	<u>Hours</u>	<u>Hours</u>	<u>Rates</u>	<u>Total</u>	<u>Per Negotiated</u> <u>Compromise</u>
<u>ROSEN, BIEN, GALVAN & GRUNFELD</u>					
Gay C. Grunfeld (GCG)	5.70	5.50	\$835	\$4,592.50	\$4,408.80
Ernest Galvan (EG)	0.20	0.00	\$780	\$0.00	\$0.00
Karen E. Stilber (KES)	10.50	10.10	\$340	\$3,434.00	\$3,296.64
Total Hours:	16.40	15.60			
RBGG FEES:				\$8,026.50	\$7,705.44
<u>PRISON LAW OFFICE</u>					
Rita Lomio	2.40	2.40	\$615	\$1,476.00	\$1,416.96
Margot Mendelson (MKM)	2.50	2.50	\$535	\$1,337.50	\$1,284.00
Ashley Kirby (AK)	6.70	6.70	\$210	\$1,407.00	\$1,350.72
Total Hours:	11.60	11.60			
PLO FEES:				\$4,220.50	\$4,051.68
<u>DISABILITY RIGHTS EDUCATION AND</u>					
<u>DEFENSE FUND</u>					
Linda Kilb (LDK)	0.50	0.50	\$845	\$422.50	\$405.60
Total Hours:	0.50	0.50			
DREDF FEES:				\$422.50	\$405.60
TOTAL ARMSTRONG FEES WORK:				\$12,669.50	\$12,162.72

Armstrong v. Brown

Third Quarterly Statement of 2018

July 1, 2018 through September 30, 2018

Costs***Matter: Fees Work in All Matters***

	<u>Costs</u>	<u>Costs Now Owing</u>
	<u>Per Negotiated Compromise</u>	
<u>Rosen, Bien, Galvan & Grunfeld (581-2)</u>		
Photocopying and Printing (in-house)	\$139.60	\$134.02
Long distance telephone	\$0.05	\$0.05
Postage & Delivery	\$48.91	\$46.95
Total RBGG Costs:	\$188.56	\$181.02
<u>Disability Rights Education & Defense Fund, Inc.</u>		
Photocopying (in-house)	\$3.00	\$2.88
Total DREDF Costs:	\$3.00	\$2.88
TOTAL FEES WORK COSTS :	\$191.56	\$183.90

Exhibit E

1 GAY CROSTHWAIT GRUNFELD - 121944
 2 JENNY S. YELIN - 273601
 2 ROSEN BIEN GALVAN & GRUNFELD LLP
 3 50 Fremont Street, 19th Floor
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 5 Email: ggrunfeld@rbgg.com
 5 jyelin@rbgg.com

6 JENNIFER LIU - 279370
 7 ASHLEY PELLOUCHOUD - 286049
 7 THE LIU LAW FIRM, P.C.
 8 1390 Market Street, Suite 200
 8 San Francisco, California 94102
 9 Telephone: (415) 896-4260
 9 Facsimile: (415) 231-0011
 10 Email: jliu@liulawpc.com
 10 ap@liulawpc.com

11 Attorneys for Plaintiff and the Settlement Class

12
 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 COUNTY OF ALAMEDA

15
 16 MATTHEW SUNNER, on behalf of
 17 himself and others similarly situated,

18 Plaintiff,

19 v.

20 KENNETH R. TURNAGE II GENERAL
 21 CONTRACTOR, INC., d/b/a K2GC, INC.;
 21 KENNETH R. TURNAGE II; and DOES
 1-10,

22 Defendants.

Case No. RG15772244

ASSIGNED FOR ALL PURPOSES TO:
 JUDGE GEORGE HERNANDEZ
 DEPARTMENT 17

COMPLEX CASE; CLASS ACTION

[PROPOSED] ORDER GRANTING
 MOTION FOR CLASS
 REPRESENTATIVE SERVICE
 AWARD AND ATTORNEY'S FEES
 AND COSTS

Judge: Hon. George Hernandez

Date: February 15, 2017

Time: 2:30 p.m.

Dept.: 17

Reservation No.: 1792476 182-2643

Action Filed: May 29, 2015

Trial Date: None Set

FILED
 ALAMEDA COUNTY

FEB 15 2017

CLERK OF THE SUPERIOR COURT
 By Yedra Deputy

Received

FEB 01 2017

1 Plaintiff's Motion for Class Representative Service Award and Attorney's Fees and
2 Costs came on for hearing before this Court on February 15, 2017. The Court having
3 considered the pleadings on the motion, the Joint Stipulation of Settlement and Release
4 ("Settlement Agreement"), attached as Exhibit A to the Declaration of Gay Crosthwait
5 Grunfeld in Support of Motion for Final Approval of Class Action Settlement and Motion
6 for Class Representative Service Award and Attorney's Fees and Costs, oral argument at
7 the hearing, and the record in this case, and good cause appearing, hereby ORDERS as
8 follows:

9 1. A service award is justified in this case in light of the efforts of Class
10 Representative Matthew Sunner to advance the litigation and the interests of the Class.

11 Mr. Sunner has fairly and adequately represented and protected the interests of the Class.

12 2. Attorney's Fees equal to one-third of the settlement fund (\$99,000) are
13 reasonable and justified in this case, due to the risks inherent in the case, the contingent
14 nature of the fee arrangement, the skill of Class Counsel, and the efforts of Class Counsel
15 to litigate the case effectively and pursue a settlement for the Class.

16 3. The costs advanced by Class Counsel were reasonably incurred in pursuit of
17 the litigation.

18 4. The Court ORDERS that the following award, fees and costs are reasonable
19 and should be paid pursuant to the schedule set forth in the Order Granting Motion for
20 Final Approval of Class Action Settlement and the Settlement Agreement:

21 a. \$10,000 to Class Representative Matthew Sunner as a service award;
22 b. \$99,000 to The Liu Law Firm, P.C. and Rosen Bien Galvan &
23 Grunfeld LLP for attorney's fees; and

24 ///

25 ///

26 ///

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1 c. \$13,283.87 jointly to Class Counsel for litigation costs.

2 IT IS SO ORDERED.

3
4 DATED: 2/15, 2017


George Hernandez
Judge of the Superior Court

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1 GAY CROSTHWAIT GRUNFELD – 121944
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ENDORSED
FILED
ALAMEDA COUNTY

JAN 31 2017

CLERK OF THE SUPERIOR COURT
By: ERICA BAKER, Deputy

6 JENNIFER LIU – 279370
7 ASHLEY PELLOUCHOUD – 286049
8 THE LIU LAW FIRM, P.C.
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Email: jliu@liulawpc.com
10 ap@liulawpc.com

11 Attorneys for Plaintiff and the Settlement Class
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14
15 COUNTY OF ALAMEDA

16 MATTHEW SUNNER, on behalf of
17 himself and others similarly situated,

18 Plaintiff,

19 v.

20 KENNETH R. TURNAGE II GENERAL
21 CONTRACTOR, INC., d/b/a K2GC, INC.;
22 KENNETH R. TURNAGE II; and DOES
1-10,

23 Defendants.

Case No. RG15772244

ASSIGNED FOR ALL PURPOSES TO:
JUDGE GEORGE HERNANDEZ
DEPARTMENT 17

COMPLEX CASE; CLASS ACTION

DECLARATION OF GAY
CROSTHWAIT GRUNFELD IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
CLASS REPRESENTATIVE SERVICE
AWARD AND ATTORNEY'S FEES
AND COSTS

Judge: Hon. George Hernandez

Date: February 15, 2017

Time: 2:30 p.m.

Dept.: 17

Reservation No.: 1792476

Action Filed: May 29, 2015

Trial Date: None Set

1	Timekeeper	Position	Class	Hours	2017 Rate/Hour	Total
2	Gav C. Grunfeld	Partner	1984	100.4	\$825	\$82,830.00
3	Aaron Fischer	Former Associate	2006	49.2	\$625	\$30,750.00
4	Blake Thompson	Former Associate	2007	106.8	\$600	\$64,080.00
5	Margot Mendelson	Former Associate	2009	2.8	\$515	\$1,442.00
6	Jenny Yelin	Associate	2010	273.3	\$500	\$136,650.00
7	Christopher Hu	Associate	2013	3.4	425	\$1,445.00
8	Linda Woo	Paralegal	N/A	103	\$325	\$33,475.00
9	E. Gail LaPuria	Paralegal	N/A	18.7	\$275	\$5,142.50
10	Total			657.6		\$355,814.50

27. The amount sought in fees, 33 1/3% of the common fund, or \$99,000, is only 28% of our firm's lodestar. With LLF's fees included, it is a much smaller percentage.

28. Our firm has been actively involved in every stage of the case since we joined as co-counsel shortly after the complaint was filed in June 2015. The 657.6 hours claimed includes the work we did on some of the most significant, time-intensive portions of this case: drafting discovery requests, including discovery directed to Defendants as well as third-parties; reviewing documents produced in response to those discovery requests; meeting and conferring repeatedly with Defendants regarding their inadequate discovery responses; researching and drafting the mediation statement, preparing for mediation, and conducting a nearly-full day mediation with Michael Loeb in December 2015; preparing for and taking the deposition of K2GC's Person Most Qualified, Kenneth R. Turnage; interviewing witnesses and obtaining declarations in support of the class certification motion; drafting the class certification motion, which we filed in February 2016, just nine months after the case was filed; negotiating the settlement in the case; preparing the Motion for Preliminary Approval of the settlement; overseeing the Class Notice process; and drafting the instant Motions for Final Approval and for a Class Representative Service Award and Attorney's Fees and Costs.

29. We expect to spend significant time continuing our work on this case after the filing of this motion, including preparing for the Final Fairness Hearing on February

Exhibit F

1 GAY CROSTHWAIT GRUNFELD – 121944
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17 Attorneys for Plaintiffs and the Proposed Class

18

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 JAIME QUINBY, LINDA GOMES, and
23 ERIC FONTES, on behalf of themselves
24 and all others similarly situated,

25 Plaintiffs,

26 v.

27 ULTA SALON, COSMETICS &
28 FRAGRANCE, INC.,

Defendant.

Case No. CV-15-4099 WHO

**ORDER GRANTING MOTION FOR
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Judge: Hon. William H. Orrick

Date: January 18, 2017

Time: 2:00 p.m.

Crtrm.: 2, 17th Floor

Trial Date: None Set

1 Upon consideration of Plaintiffs' Motion for Final Approval of Class Action
 2 Settlement, related declarations, all pleadings on file in the case, and argument presented at
 3 the hearing, and upon the Court's review of the Joint Stipulation of Settlement and Release
 4 ("Settlement Agreement") attached as Exhibit A to the Declaration of Gay Crosthwait
 5 Grunfeld in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement
 6 and the exhibits thereto, IT IS HEREBY ORDERED AS FOLLOWS:

7 1. "Although Rule 23 imposes strict procedural requirements on the approval of
 8 a class settlement, a district court's only role in reviewing the substance of that settlement
 9 is to ensure that it is 'fair, adequate, and free from collusion.'" *Lane v. Facebook, Inc.*,
 10 696 F.3d 811, 819 (9th Cir. 2012), *cert. denied*, 134 S. Ct. 8 (2013) (quoting *Hanlon v.*
 11 *Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998)). When class counsel is experienced
 12 and supports the settlement, and the agreement was reached after arm's length
 13 negotiations, courts should give a presumption of fairness to the settlement. *See Larsen v.*
 14 *Trader Joe's Co.*, No. 11-CV-05188-WHO, 2014 WL 3404531, at *5, *8 (N.D. Cal. July
 15 11, 2014), appeal dismissed (Nov. 17, 2014); *Ellis v. Naval Air Rework Facility*, 87 F.R.D.
 16 15, 18 (N.D. Cal. 1980) *aff'd*, 661 F.2d 939 (9th Cir. 1981).

17 2. The Court finds that the settlement in this case is fair, adequate, and free
 18 from collusion, and that all of the relevant *Hanlon* factors weigh in favor of granting final
 19 approval in this case. *See Hanlon*, 150 F.3d 1011 at 1026. The Court thus grants final
 20 approval of the settlement. As set forth in the Settlement Agreement, the total amount that
 21 defendant ULTA Salon, Cosmetics & Fragrance, Inc. ("ULTA" or "Defendant") shall be
 22 required to pay under this settlement shall not exceed \$3,650,000, plus employer taxes.

23 3. The Court finds that distribution of notice to the class has been completed in
 24 conformance with the Court's Order Provisionally Certifying Settlement Class and
 25 Preliminarily Approving Class Settlement, Dkt. No. 46 ("Preliminary Approval Order").
 26 The notice to the class was adequate, satisfied due process requirements, and was the best
 27 notice practicable under the circumstances.

28 4. The Court certifies for settlement purposes the following class under Federal

1 Rule of Civil Procedure 23(e):

2 All current and former General Managers employed by Defendant in its California
3 retail store locations at any time from September 9, 2011 to September 19, 2016 or
the date of this Order, whichever occurs first (the “Class” or “Class Members”).

4 5. The Court finds that the Parties’ settlement was entered into in good faith
5 pursuant to non-collusive, arms-length negotiations, and that the Settlement Agreement is
6 fair, reasonable, and adequate.

7 6. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court
8 grants final approval of the Settlement Agreement, and declares the Settlement Agreement
9 binding on all Class Members who have not timely opted out.

10 7. The Court hereby directs the parties to effectuate the terms of the settlement
11 as set forth in the Settlement Agreement.

12 8. Within 14 days of the date of this Order, ULTA will deposit the Gross
13 Settlement Amount, \$3,650,000 into an interest-bearing escrow account established by the
14 Settlement Administrator, Simpluris.

15 9. The Effective Date of the Settlement shall be the last of either: (a) the day
16 after the deadline for taking an appeal of this Order, if no appeal is filed; or (b) the day
17 after all appeals are resolved in favor of final approval, if there is an appeal of this Final
18 Approval Order.

19 10. Simpluris is hereby directed to distribute the Gross Settlement Amount, plus
20 any interest earned, within three (3) days after the Effective Date, as follows:

21 a. \$10,000 to each of the Class Representatives Jaimie Quinby, Linda
22 Gomes, and Eric Fontes;

23 b. \$923,884.67 to Class Counsel as attorney’s fees and costs;

24 c. \$75,000 to the California Labor and Workforce Development Agency
25 (“LWDA”); and

26 d. the remainder, less \$130,000 as a reserve fund to cover errors and
27 omissions (“Reserve Fund”) and \$8,500 as settlement administrator costs, to the Class,
28 pursuant to the formula set forth in Section 3.4 of the Settlement Agreement.

1 11. Simpluris shall use the Reserve Fund to cover any correctable errors or
2 omissions and satisfy any claim for relief pursuant to Federal Rules of Civil Procedure
3 60(b)(1) or 60(D), as set forth in Section 3.1(D) of the Settlement Agreement.

4 12. Any unclaimed settlement funds after each distribution shall be redistributed
5 as specified in Section 3.1(D)-(E) of the Settlement Agreement; if the amount after each
6 redistribution is equal to or greater than \$5,000, the remaining funds will be redistributed
7 to Class Members who have timely cashed their Settlement Checks, with the cost of the
8 redistribution to be paid from the Fund; and if the amount remaining is less than \$5,000,
9 the remaining funds will be donated to the Justice & Diversity Center of the Bar
10 Association of San Francisco under the *cy pres* doctrine.

11 13. The Parties shall abide by all terms of the Settlement Agreement, as
12 modified by this Court's orders.

13 14. The Court hereby enters judgment in accordance with the Settlement
14 Agreement.

15
16 DATED: January 18, 2017

17
18 
19 William H. Orrick
20 United States District Judge

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1 GAY CROSTHWAIT GRUNFELD – 121944
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16 Email: jliu@liulawpc.com

17 Attorneys for Plaintiffs and the Proposed Class

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20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

JAIMIE QUINBY, LINDA GOMES, and
ERIC FONTES, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

ULTA SALON, COSMETICS &
FRAGRANCE, INC.,

Defendant.

Case No. CV-15-4099 WHO

**DECLARATION OF GAY
CROSTHWAIT GRUNFELD IN
SUPPORT OF MOTION FOR CLASS
REPRESENTATIVE SERVICE
AWARDS AND ATTORNEY'S FEES
AND COSTS**

Judge: Hon. William H. Orrick
Date: January 18, 2017
Time: 2:00 p.m.
Crtrm.: 2, 17th Floor

Trial Date: None Set

Timekeeper	Position	Class	Hours	2016 Rate/Hour	Total
Gay C. Grunfeld	Partner	1984	110.6	\$790	\$87,374.00
Jenny S. Yelin	Associate	2010	178.3	\$475	\$84,692.50
Andrew Spore	Associate	2015	21.2	\$380	\$8,056.00
Other Attorneys	N/A	N/A	20.8	N/A	\$11,889.00
Linda Woo	Paralegal	N/A	38.9	\$300	\$11,670.00
Other Paralegals	Paralegal	N/A	4.5	N/A	\$1,224.00
Total			374.3		\$204,905.50

11 26. Our current lodestar amount of \$204,905.50, combined with LLF's lodestar
12 of \$296,915.00, results in a total lodestar amount of \$501,821.00 for Plaintiffs' counsel.
13 The amount sought in fees, 25% of the common fund, or \$912,500, would result in a
14 multiplier of 1.82 based on work through November 11, 2016. I believe that the excellent
15 results achieved in this case, coupled with the efficiency with which we reached a
16 settlement with the Defendants, justify this modest multiplier.

17 27. We expect to spend significant time continuing our work on this case after
18 the filing of this motion, including preparing and filing the Motion for Final Approval,
19 preparing for the Final Fairness Hearing on January 18, 2017, communicating with class
20 members and the Settlement Administrator, and negotiating with Defendants regarding the
21 timing and details of the final distribution of funds. As discussed in more detail below, we
22 will likely spend at least 55 additional hours on this case in the future, so our total amount
23 of fees is likely to be at least \$233,603.17.

24 28. A summary of the key work done and hours incurred by RBGG at each stage
25 of the litigation is set forth below. Upon request, I could submit RBGG's individual,
26 itemized billing records for the Court's review.

Exhibit G

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7 JESSE HERNANDEZ, et al.,
8 Plaintiffs,
9 v.
10 COUNTY OF MONTEREY, et al.,
11 Defendants.
12

13 Case No. [5:13-cv-02354-PSG](#)
14
15

16 **ORDER GRANTING ATTORNEY'S
17 FEES AND EXPENSES**

18 **(Re: Docket No. 500)**

19 Counsel for Plaintiffs Jesse Hernandez and all others similarly situated moves for an award
20 of \$4.8 million for their reasonable attorney's fees and expenses,¹ as agreed by the parties in the
21 Settlement Agreement.² Defendants do not oppose: while Defendants initially objected to
22 Plaintiffs' request for interest,³ the parties successfully met, conferred and resolved the issue
23 without the court's intervention.⁴

24 The court GRANTS as unopposed Plaintiffs' motion for \$4.8 million for reasonable
25 attorney's fees and expenses. The question of interest is resolved according to the parties'
26 stipulation.⁵

27
28

¹ See Docket No. 500.

² See Docket No. 494 at ¶¶ 60-65.

³ See Docket Nos. 501, 502.

⁴ See Docket No. 508.

⁵ See *id.*

1 **SO ORDERED.**

2 Dated: November 9, 2015

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4 PAUL S. GREWAL
United States Magistrate Judge

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United States District Court
Northern District of California

1 MICHAEL W. BIEN – 096891
2 ERNEST GALVAN – 196065
3 GAY C. GRUNFELD – 121944
4 VAN SWEARINGEN – 259809
5 MICHAEL FREEDMAN – 262850
6 KRISTA STONE-MANISTA – 269083
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21 JAMES EGAR – 065702
22 Public Defender
23 DONALD E. LANDIS, JR. – 149006
24 Assistant Public Defender
25 OFFICE OF THE PUBLIC DEFENDER
26 COUNTY OF MONTEREY
27 111 West Alisal Street
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Email: EgarJS@co.monterey.ca.us
LandisDE@co.monterey.ca.us

29 Attorneys for Plaintiffs

30 UNITED STATES DISTRICT COURT
31 NORTHERN DISTRICT OF CALIFORNIA

32 JESSE HERNANDEZ et al., on behalf of
33 themselves and all others similarly situated,

34 Plaintiffs,

35 v.

36 COUNTY OF MONTEREY; MONTEREY
37 COUNTY SHERIFF'S OFFICE;
38 CALIFORNIA FORENSIC MEDICAL
39 GROUP, INCORPORATED, a California
40 corporation; and DOES 1 to 20, inclusive,

41 Defendants.

42 ALAN SCHLOSSER – 049957
43 MICAELA DAVIS – 282195
44 AMERICAN CIVIL LIBERTIES UNION
45 FOUNDATION OF NORTHERN
46 CALIFORNIA, INC.
47 39 Drumm Street
48 San Francisco, California 94111-4805
49 Telephone: (415) 621-2493
50 Facsimile: (415) 255-8437
51 Email: aschlosser@aclunc.org
52 mdavis@aclunc.org

53 ERIC BALABAN (*admitted pro hac vice*)
54 CARL TAKEI – 256229
55 NATIONAL PRISON PROJECT of the
56 AMERICAN CIVIL LIBERTIES UNION
57 915 15th Street N.W., 7th Floor
58 Washington, D.C. 20005-2302
59 Telephone: (202) 393-4930
60 Facsimile: (202) 393-4931
61 Email: ebalaban@npp-aclu.org
62 ctakei@npp-aclu.org

63 Case No. CV 13 2354 PSG

64 **DECLARATION OF MICHAEL W.
65 BIEN IN SUPPORT OF
66 PLAINTIFFS' MOTION FOR
67 ATTORNEYS' FEES AND
68 EXPENSES**

69 Judge: Hon. Paul S. Grewal
70 Date: November 10, 2015
71 Time: 10:00 a.m.
72 Crtrm.: 5, 4th Floor

1 Area and elsewhere in California. My firm's billing rates are charged to and paid by our
 2 many clients who pay by the hour on a monthly billing basis, in matters arising both inside
 3 and outside the State of California. They are also the rates we claim in our fee applications
 4 in all our fee-shifting cases, both inside and outside the San Francisco Bay Area. These
 5 contain no contingency, delay or preclusion components. They have been accepted
 6 consistently by courts in California and elsewhere. The 2015 hourly rate for each
 7 timekeeper included in RBGG's lodestar calculation is set forth in the Table 7:

8 **Table 7, RBGG Rates**

9 Classification	10 Name	11 Law Grad Date	12 Rate
11 Partner	12 Bien, Michael W.	13 1980	14 \$840
12	13 Grunfeld, Gay C.	14 1984	15 \$710
13	14 Galvan, Ernest	15 1997	16 \$690
14 Associate	15 Boysen-Aragon, Laura	16 2006	17 \$490
15	16 Fischer, Aaron J.	17 2006	18 \$490
16	17 Hollar, Sidney S.	18 1984	19 \$490
17	19 Freedman, Michael L.	20 2008	21 \$470
18	20 Swearingen, Van	21 2008	22 \$470
19	22 Stone-Manista, Krista	23 2009	24 \$440
20	23 Wolf, Sumana Cooppan	24 2009	25 \$440
21	25 Alexander, Sarah Poppy	26 2012	27 \$380
22 Paralegal	28 Hamilton, Abigail M.		29 \$250
23	30 Luttrell, Eric L.		31 \$295
24	32 Roudebush, Haruka		33 \$250
25	34 Tauben, Rolayn L.		35 \$295
26	36 Tseng, Doris		37 \$250
27	38 Woo, Linda H.		39 \$290
28 Paralegal Clerk	40 Landes, Charlotte J.		41 \$220
	42 Morrison, Kevin J.		43 \$200

Exhibit H

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
11 JOSE RAMIREZ ET AL.,

No. C 12-04590 CRB

12 Plaintiffs,

13 v.
14 **ORDER GRANTING MOTION FOR
15 FINAL APPROVAL, ATTORNEYS'
16 FEES AND COSTS AND CLASS
17 REPRESENTATIVE INCENTIVE
18 AWARDS, AND ADMINISTRATIVE
19 MOTIONS TO FILE UNDER SEAL**

20 GHILOTTI BROS. INC. ET AL.,

21 Defendants.

22 Upon consideration of the Plaintiffs' Motion for Final Approval of Class Action
23 Settlement and Injunctive Relief and Motion for Attorneys' Fees and Costs and Class
24 Representative Incentive Awards, the Memorandum in Support of Objections Filed by
25 Improperly Removed Class Members to Final Settlement Agreement and Notice of Intent
26 to Appear ("Objections"), Plaintiffs' Response to Objections to Final Settlement Filed by
27 Excluded Supervisors, and Plaintiffs' Evidentiary Objections to Objections Filed by
thereto, IT IS HEREBY ORDERED AS FOLLOWS:

1. "Although Rule 23 imposes strict procedural requirements on the approval of

1 a class settlement, a district court's only role in reviewing the substance of that settlement
 2 is to ensure that it is 'fair, adequate, and free from collusion.'" Lane v. Facebook, Inc.,
 3 696 F.3d 811, 819 (9th Cir. 2012), cert. denied, 134 S. Ct. 8 (2013) (quoting Hanlon v.
 4 Chrysler Corp., 150 F.3d 1011, 1027 (9th Cir. 1998)). When class counsel is experienced
 5 and supports the settlement, and the agreement was reached after arm's length
 6 negotiations, courts should give a presumption of fairness to the settlement. See Nobles v.
 7 MBNA Corp., No. C 06-3725 CRB, 2009 WL 1854965, at * 2 (N.D. Cal. June 29, 2009);
 8 Ellis v. Naval Air Rework Facility, 87 F.R.D. 15, 18 (N.D. Cal. 1980) aff'd, 661 F.2d 939
 9 (9th Cir. 1981). The Court finds that the settlement in this case is fair, adequate, and free
 10 from collusion, and that all of the relevant Hanlon factors weigh in favor of granting final
 11 approval in this case. See Hanlon, 150 F.3d 1011 at 1026. The Court thus grants final
 12 approval of the settlement. As set forth in the Settlement Agreement, the total amount that
 13 Ghilotti Bros., Inc. ("GBI") shall be required to pay under this settlement shall not exceed
 14 \$950,000, plus interest as described therein.

15 2. In approving this settlement, the Court has considered the Objections and
 16 declarations attached thereto filed by nine GBI Supervisors ("Excluded Supervisors"), as
 17 well as Plaintiffs Evidentiary Objections to the Excluded Supervisors' declarations.
 18 The Court overrules the Objectors' contentions that the settlement is not fair, reasonable, and
 19 adequate. Objections (dkt. 106) at 2. The Objectors argue that they were improperly
 20 excluded from the class and that class counsel failed to represent them as true members of the
 21 class. Id. at 1. However, the Court, in its Order granting preliminary settlement approval,
 22 directed the parties to abide by the terms of the Stipulation Settlement Agreement. Prelim
 23 Order at 5. The Stipulated Settlement included a dispute resolution procedure in which
 24 parties would submit to Judge Cahill (ret.) disputes, including disputes about whether a
 25 person was a properly included class member, for a final, binding, and nonappealable
 26 resolution. Settlement Agreement (dkt. 110, Exh. A) at 23. Judge Cahill determined that the
 27 Objectors are not class members. Objections at 1. Thus, this issue was already definitively
 28

1 resolved in Plaintiffs' favor. The Court, therefore, overrules the Excluded Supervisors'
 2 Objections.

3 3. The Court finds that distribution of notice to the class has been completed in
 4 conformance with the Court's Order Granting Unopposed Motion for Preliminary
 5 Approval of Class Action Settlement and Injunctive Relief, Dkt. No. 97 ("Preliminary
 6 Approval Order"). The notice to the class was adequate, satisfied due process
 7 requirements, and was the best notice practicable under the circumstances.

8 4. Incentive award payments are justified where the class representatives
 9 expend extraordinary effort, bear personal hardship, and risk their current and future
 10 livelihood to remedy unfair practices for the benefit of the class. See Van Vranken v.
 11 Atlantic Richfield Co., 901 F. Supp. 294, 299 (N.D. Cal. 1995). The Court finds that the
 12 incentive awards are justified here in light of the efforts of Jose Ramirez, Luis Gomez and
 13 Marck Mena Ortega (the "Class Representatives") to advance the litigation and the
 14 interests of the class.

15 5. "[A] litigant or a lawyer who recovers a common fund for the benefit of
 16 persons other than himself or his client is entitled to a reasonable attorney's fee from the
 17 fund as a whole." Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980). Courts are
 18 directed to "take into account all of the circumstances of the case" when determining what
 19 fees to approve (Vizcaino v. Microsoft Corp., 290 F.3d 1043, 1048 (9th Cir. 2002)), with
 20 "[r]easonableness [being] the goal." Fischel v. Equitable Life Assurance Soc'y of the U.S.,
 21 307 F.3d 997, 1007 (9th Cir. 2002). The Court find that the factors courts consider in
 22 assessing reasonableness—primary among them, the value of the monetary and nonmonetary
 23 benefits secured for the class—support the requested fee award of \$285,000,
 24 equal to 30% of the settlement amount of \$950,000. See In re Nuvelo, Inc. Sec. Litig.,
 25 No. C 07-04056 CRB, 2011 WL 2650592, at *1 (N.D. Cal. July 6, 2011). The Court
 26 further finds that the costs advanced by Class Counsel were reasonably incurred in pursuit
 27 of the litigation.

28 6. The Class Representatives and Class Counsel have fairly and adequately

1 represented and protected the interests of the Class in the Action. In light of their efforts,
 2 the Court hereby awards class representative incentive awards, attorney's fees, and costs,
 3 as follows:

- 4 a. \$15,000 each to Jose Ramirez, Luis Gomez, and Marck Mena Ortega
 5 (the "Class Representatives");
 6 b. \$285,000 jointly to Rosen Bien Galvan & Grunfeld LLP and
 7 Stewart & Musell LLP ("Class Counsel") for reasonable attorneys' fees; and
 8 c. \$60,000 jointly to Class Counsel for litigation costs.

9 These amounts are to be paid according to the schedule set forth infra.

10 7. The twenty-six individuals who filed valid and timely Requests for
 11 Exclusion are hereby excluded from the Settlement Class certified by the Court's
 12 Preliminary Approval Order.

13 8. The Court finds that the parties' settlement was entered into in good faith
 14 pursuant to non-collusive, arms-length negotiations, and that the Settlement Agreement is
 15 fair, reasonable, and adequate.

16 9. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court
 17 grants final approval of the Settlement Agreement.

18 10. The Court hereby directs the parties to effectuate the terms of the settlement
 19 as set forth in the Settlement Agreement.

20 11. Within 5 calendar days of the date of this Order, GBI is directed to pay
 21 \$118,500.00, directly as follows, and to issue 1099s for each of the following recipients
 22 upon receipt of a W9:

- 23 a. \$15,000 to each of the Class Representatives;
 24 b. \$10,000 to Simpluris, the Settlement Administrator;
 25 c. \$60,000 to Class Counsel for out-of-pocket expenses; and
 26 d. \$3,500 to the California Labor and Workforce Development Agency
 27 as a PAGA penalty.

28 12. Within 30 calendar days of the date of this Order, GBI is directed to pay

1 \$140,000.00 to Simpluris for distribution to the Class, and one-third of the amount
 2 awarded in attorneys' fees (\$95,000) to Class Counsel ("Initial Disbursement").

3 13. The Court orders Simpluris to distribute the \$140,000.00 initial class
 4 payment to the 245 members of the class pursuant to the formula set forth in Section 3 of
 5 the Settlement Agreement within 10 calendar days of receipt from GBI.

6 14. The settlement funds allocated for the class, which remain after the Initial
 7 Disbursement ("Remaining Settlement Funds") will accrue simple interest at 5% per
 8 annum beginning on January 15, 2014.

9 15. GBI is directed to pay the following amounts, for distribution as follows:

10 a. to Simpluris to distribute to the Class, with the Class receiving the
 11 interest that accrues: (1) One-half of the balance of the Remaining Settlement Funds, to be
 12 paid on or before July 1, 2015; and (2) the remaining amount of the Remaining Settlement
 13 Funds to be paid in a final payment on or before December 15, 2016;

14 b. to Simpluris for additional settlement administration costs in amounts
 15 not to exceed \$5,723.50 on July 1, 2015 and of \$5,723.50 on December 15, 2016; and

16 c. to Class Counsel for attorney's fees: \$95,000 on July 1, 2015 and
 17 \$95,000 on December 15, 2016.

18 16. The Court finally orders GBI to comply with the injunctive relief
 19 requirements of paragraph 13 of the Settlement Agreement and the Preliminary Approval
 20 Order, by: (1) Setting up and utilizing "a procedure pursuant to which each laborer can
 21 make a record of the time he or she starts and ends work (e.g., picking up a truck or
 22 arriving on site, etc.)," which employs "any method whereby the laborers, and not the
 23 managers or supervisors, record their own start and ending times, . . . subject to
 24 verification for accuracy by GBI; and (2) complying with IWC Order 16-2001 for all
 25 purposes and in all respects, except to the extent GBI's obligations may be modified by the
 26 parties' Master Labor Agreement pursuant to the California Labor Code. Any injunction
 27 shall be considered fully discharged on the date of the last payment by GBI under the
 28 Settlement Agreement.

1 17. The Court will retain exclusive and continuing jurisdiction over the present
2 action and the settling parties, including all class members, for purposes of enforcing and
3 interpreting the Settlement Agreement, the Final Approval Order, and the claims and
4 payment process and the injunctive relief established therein, until the date of the last
5 payment by GBI.

6 18. The Court GRANTS Plaintiffs' administrative motions to file under seal.

7

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9 **IT IS SO ORDERED.**

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12 Dated: April 21, 2014



13 CHARLES R. BREYER

14 UNITED STATES DISTRICT JUDGE

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14 Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

12 JOSE RAMIREZ, LUIS GOMEZ, and
13 MARCK MENA ORTEGA on behalf of
14 themselves and all persons similarly
situuated,

15 Plaintiffs,

16 v.

17 GHILOTTI BROS., INC., a corporation;
18 and DOES 1 to 50, inclusive,

19 Defendants.

20 Case No. C-12-4590-CRB

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**DECLARATION OF GAY
CROSTHWAIT GRUNFELD IN
SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
INJUNCTIVE RELIEF AND MOTION
FOR ATTORNEYS' FEES AND
COSTS AND CLASS
REPRESENTATIVE INCENTIVE
AWARDS**

Judge: Hon. Charles R. Breyer

Date: April 18, 2014

Time: 10:00 a.m.

Crtrm.: 6, 17th Floor

ROSEN BIEN GALVAN and GRUNFELD LLP**PARTNERS** **2014 Rates**

Sanford Jay Rosen	\$900
Michael W. Bien	\$800
Gay C. Grunfeld	\$675
Ernest Galvan	\$650

OF COUNSEL

Jane Kahn	\$580
-----------	-------

ASSOCIATES

Thomas Nolan	\$550
Kenneth Walczak	\$490
Lisa Ells	\$470
Kathryn Mantoan	\$460
Aaron Fischer	\$460
Blake Thompson	\$450
Michael Freedman	\$440
Van Swearingen	\$440
Benjamin Bien-Kahn	\$410
Krista Stone-Manista	\$410
Margot K. Mendelson	\$410
Jennifer Stark	\$410
Jenny Yelin	\$390
Sarah Poppy Alexander	\$350

PARALEGALS

Kevin Jones	\$290
Rolayn Tauben	\$290
Eric Luttrell	\$290
Karen Stilber	\$270
Kristen Vanzetti	\$250
Fely Villadelgado	\$240
Glenn Baldwin	\$230
Abigail Hamilton	\$230
Haruka Roudebush	\$230
Doris Tseng	\$230
Diana Gama	\$230
Lucy Taylor	\$230

LITIGATION SUPPORT/PARALEGAL CLERKS

Paralegal Clerks	\$180
------------------	-------

OTHER

Law Students	\$260
Word Processing	\$80